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IN THE HIGH COURT OF JUDICATURE AT BILASPUR, C.G.
WRIT PETITION NO. 1874 /2002

(Petition under article 227 of the Constitution of India)

PETITIONER

Giridhram Sahu, aged about 26 years,
S/o Sanath Kumar Sahu, Panchayat
Karmi (Secretary) gram Panchayat
Bhaisa, Block Development Bemetara,
R/o Village Bhaisa, Tahsil Bemetra,
Distt. Durg (C.G.)

VERSUS

RESPONDENTS

- 1) The Additional Collector
Cum Revisional Authority,
Bemetra, Distt. Durg (C.G.)
- 2) Sub Divisional Office, (Revenue)
Cum Appellate Authority,
Bemetara Distt. Durg (C.G.)
- 3) The Chief Executive Officer, Cum
Competent Authority Janpad
Panchayat Bemetara, Distt. Durg
(C.G.)
- 4) Gram Panchayat Bhaisa, through
its Sarpach, Block Development
Bemetara, Distt. Durg (C.G.)

P.R. No. 191 Spr
Presented by Shri Vishwanath
dated 13.9.02



WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION
OF INDIA FOR ISSUING AN APPROPRIATE WRIT, DIRECTIONS
AND ORDERS.

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 1874 of 2002

Petitioner : Giridhram Sahu

Versus

Respondents : The Additional Collector & others

Single Bench: Hon'ble Mr. Justice Satish K. Agnihotri.

Shri Vishnu Koshta, counsel for the Petitioner.

Shri Sushil Dubey, Government Advocate for the respondents No. 1 and 2/State.

Shri Sanjay S. Agrawal, counsel for the respondent No. 4.

ORDER

(Passed on 1st September, 2006)

1. The petitioner was appointed as Panchayat Karmi/Secretary in the Gram Panchayat, Bhaisa, Block Bemetara, District Durg.
2. The Gram Panchayat in its meeting dated 11.10.2000 (Annexure P/1) resolved to remove the petitioner from the post of Panchayat Karmi/Secretary on the allegation that as Panchayat Karmi/Secretary the petitioner allotted the land on lease in the name of his wife and other family members, his appointment was also not as per the provisions of law.
3. The Gram Sabha by its resolution dated 16.10.2000 approved the resolution passed by the Gram Panchayat whereby the

petitioner was removed from the post of Panchayat Karmi/Secretary.

4. The Chief Executive Officer/respondent No. 3 approved the proceedings of the Gram Panchayat and that of the Gram Sabha and passed the order of removal of the petitioner from service on 25.10.2000 (Annexure P/3).
5. The petitioner filed an appeal before the Additional Collector, Bemetara. The Additional Collector by order dated 23.11.2000 (Annexure P/6) stayed the operation of the impugned order dated 25.10.2000 (Annexure P/3) passed by the respondent No. 3.
6. The Gram Panchayat/respondent No. 4 preferred a revision before the Commissioner, Raipur. The Commissioner, after hearing both the parties, by order dated 21.2.2002 (Annexure P/8) dismissed the revision as not maintainable against the order dated 23.11.2000 (Annexure P/6) passed by the Additional Collector/respondent No. 1 staying the operation of the impugned order dated 25.10.2000 passed by the Chief Executive Officer/respondent No. 3. The respondent No. 1 ultimately dismissed the appeal filed by the petitioner on 8.8.2000 (Annexure P/9).
7. The petitioner has filed this petition impugning the order dated 28.11.2000 (Annexure P/4) passed by the Sub

Divisional Officer, Bemetara holding that the appeal is maintainable before the Collector and further, the order dated 8.8.2002 (Annexure P/9) passed by the respondent No. 1 dismissing the appeal of the petitioner against the order of removal passed by the Gram Panchayat approved by the Gram Sabha and further, approved by the Chief Executive Officer, Janpad Panchayat, Bemetara/respondent No. 3.

8. The petitioner has filed this petition challenging the impugned orders on the ground that the petitioner was not afforded an opportunity of hearing as envisaged in Rule 7 of the Madhya Pradesh Panchayat Service (Discipline and Appeal) Rules, 1999 (for short 'The Rules, 1999'). It is further submitted that before imposing major penalties as specified in clause (iv) to (vi) of rule 5, the procedure in Rule 7 of the Rules, 1999, has not been followed. Hence, the removal order is bad as major penalty in terms of Rule 5 (b) (vi) of the Rules, cannot be imposed without conducting a regular departmental enquiry as prescribed under Rule 7 of the Rules, 1999.
9. Accordingly, the resolution dated 11.10.2000 (Annexure P/1) passed by the Gram Panchayat, and order dated 8.8.2002 (Annexure P/9) passed by the Additional Collector,

Bemetara are quashed and the petitioner is entitled to all the benefits, pecuniary and otherwise. It is made clear that this order will not come in the way of the Respondent/Gram Panchayat or any other respondent, as the case may be, from initiating the disciplinary action against the petitioner for the alleged misconduct committed by him, if so advised, in accordance with law and in terms of the procedure prescribed in Rule 7 of the Rules, 1999.

Sd/-
Satish K. Agnihotri
Judge

Bablu